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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,547	06/24/2003	Kyle Bateman	2280.ACTI.NP	1226
27472	7590	07/31/2007		
RANDALL B. BATEMAN BATEMAN IP LAW GROUP 8 EAST BROADWAY, SUITE 550 PO BOX 1319 SALT LAKE CITY, UT 84110			EXAMINER CHAMBERS, TROY	
			ART UNIT 3641	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/602,547

Applicant(s)

BATEMAN ET AL.

Examiner

Troy Chambers

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 7, 12-26, 36-39 and 50-56 is/are pending in the application.
- 4a) Of the above claim(s) 51-53 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 5, 7, 50 and 54 is/are allowed.
- 6) ☒ Claim(s) 12, 17, 19, 21, 22, 36-39, 55 and 56 is/are rejected.
- 7) ☒ Claim(s) 13-16, 18, 20, 23-26 is/are objected to:
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ ~~Notice~~ ^{of} References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. In view of the rejections below, the Examiner has re-opened prosecution of the instant application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 requires "nuts *for* attaching the facing strip to the metal plates." For the purposes of infringement, it is not clear to an alleged infringer whether or not the nut has to attach the facing strip to the metal plate. Similar language can be found in the following claims:

- a. claim 1: "nuts *for* attaching the facing strip to the metal plate" (second occurrence.
 - b. claim 1: "mounting bracket *for* connecting the bullet containment frame to the facing strip."
 - c. claim 12: "a facing strip *configured* to clamp against the two pieces of plate steel."
 - d. claim 12: "a mounting bracket *for* holding a bullet containment frame."
 - e. claim 15: "holes therein *for* receiving fasteners."
 - f. claim 26: "fasteners *for* holding the post at least partially in the channel."
 - g. claim 26: "the backing strip *for* receiving the fasteners."
4. Claims 38, 39, 55 and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention. Claim 38 recites the limitation "the mounting bracket" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 36, 37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by admitted prior art Fig. 3a. Figure 3a discloses metal plates 182, 184; facing strip 186; attachment mechanism 190; wood post 194; containment frame 196; and, intervening structure 188, 192. Applicant is not specific as to what is meant by "intervening structure."

7. Claims 12, 17, 19, 21, 22, 36, 37, 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5822936 issued to Bateman.

8. With respect to claim 12, Bateman discloses steel plates 210; facing strip 214; mounting bracket 230, 238; a plurality of nuts and bolts 222, 234; bullet containment frame (not shown but specification discloses that a chain or steel cable runs through mounting brackets for attachment to a wall, the wall qualifying as the bullet containment frame). The nuts and bolts are not disclosed as extending into the wall.

9. With respect to claim 17, bracket 230, 238 is an arm extending away from the plate steel.

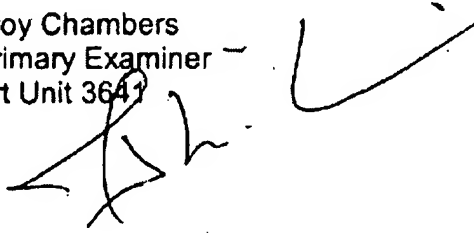
Art Unit: 3641

10. With respect to claim 19, mounting bracket 230, 238 is generally L-shaped.
11. With respect to claim 21, Bateman discloses the steel plates 210; facing strip 214; backing strip 230; arm 238; bullet containment frame (the wall as discussed with respect to claim 12).
12. With respect to claim 22, refer to the rejection of claim 12.
13. With respect to claim 36-39, Bateman discloses the structure as discussed above including wood post 250, bolts 222 and intervening structure 234, 230.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers
Primary Examiner
Art Unit 3641



TC
07/23/2007